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09/744,121	03/19/2001	Ichiro Hamada	SONY JP-121	3037
530	7590	03/23/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			TRAN, HAI V	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/744,121

Applicant(s)

HAMADA ET AL

Examiner

Hai Tran

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8,26-36 and 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8, 26-36 and 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 01/09/2006 have been fully considered but they are not persuasive and noted in view of the amended claims.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3-8, 26-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Various limitations "purchase limit time setting means for setting a purchase limit time that is based on the time it takes to download the content data", "a purchase limit time substantially equal to the duration of the time it takes to download the content data", "setting a purchase limit time that corresponds to the duration in time of one of the plurality of data segments for the music content data", "wherein the purchase limit time comprises the time it takes to download the content data", "in accordance with a purchase limit that defines a content data download time included in the program information", "including a purchase limit time that corresponds to the time it takes to

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download the audio data", "...including a purchase time limit that corresponds to the time for downloading one of the audio data packets" cited in independent claims 1, 4, 5, 6, 7, 8, 27, and 33 respectively, are not disclosed in the specification as indicated by Applicant at page 23, lines 20-23 and page 26, lines 12-22.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4, the phrase "substantially equal" is vague and indefinite. It is unclear what the metes and bounds are of such a term. See MPEP § 2173.05(d).

The following art rejection is applied to applicant claims as best understood in view of the 112 2<sup>nd</sup> paragraph rejection above.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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1. Claims 1, 3-8, 26-31, 33-35 are rejected under 35 U.S.C. 102(b) as being unpatentable by Lajoie et al. (US 5850218).

Claim 1, Lajoie discloses a broadcasting equipment for multiplexing downloadable contents data together with program information onto a main broadcast signal and broadcasting resultant data (Fig.1), characterized by comprising:

purchase limit time setting means for setting a purchase limit time that is based on the time it takes to download the contents data (reads on set time in which user could buy a PPV program, i.e., "Buy until 8:15 PM; Fig. 28, el. 544; Col. 31, lines 1-32);

generating means for generating the program information including the purchase limit time (reads on display information that include time period in which user could purchase a PPV program; See Fig. 28, el. 544); and

multiplexing means for repeatedly multiplexing the same contents data and the program information a plurality of times onto the main broadcast signals of broadcasting time of one program, thereby generating a transport stream (reads on the display message of el. 544 is inherently cyclically transmitted to users such PPV information/service along with updating information within that period of time; Col. 10, lines 25-55).

Claim 3, Lajoie further discloses wherein the contents data includes audio data encoded by the ATRAC system or audio data encoded by the MPEG-2 system (Col. 10, lines 29-40 and Col. 14, lines 1-40).

Claims 4 and 5 are analyzed with respect to claim 1.

Claim 6, Lajoie discloses a receiving equipment for receiving a transport stream obtained by repeatedly multiplexing downloadable contents data together with program information onto a main broadcast signal a plurality of times (Fig. 3), comprising:

receiving means GUI with selected items, as shown on Fig. 28 and 30 for example in which the user use a RC to select)for receiving an instruction of downloading the contents data from a user;

capturing means (Fig. 3, el. 41,42) for capturing the contents from the transport stream in response to the download instruction received by the receiving means (reads on display PPV content on the screen to user; see Fig. 28; el. 562);

re-executing means for re-executing capture of when the capturing means fails to capture the content (see Fig. 30, el. 580, 584, 586; Col. 31, lines 55-Col. 32, lines 7) ;

the contents extracting means (Fig. 3, el. 37-38) for extracting the program information corresponding to the content data from the transport stream (display on the screen requested PPV program to user, as shown in Fig. 28 and 30); and

stopping means for stopping the receiving process of the receiving means in accordance with purchase limit time included in the program information(the PPV program ended at 10:00 o'clock for a duration of 2hrs, as indicated by el. 544 in Fig. 28), and wherein the purchase limit time comprises the time it takes to download the content data.

Claim 7, Lajoie further discloses wherein the contents data includes audio data encoded in the ATRAC system or audio data encoded in the MPE-2 system (Col. 10, lines 29-40 and Col. 14, lines 1-40).

Claim 8 is analyzed with respect to claim 6.

Claim 26, Lajoie further discloses an encoder that formats a portion of the content data into encoded content data that is provided to the multiplexer and repeatedly transmitted (reads on the display message of el. 544 is inherently cyclically transmitted to users such PPV information/service along with updating information within that period of time; Col. 10, lines 25-55).

Claim 27, Lajoie discloses an apparatus for preparing content data that includes video data and audio data for transmittal as a broadcast signal, the apparatus comprising:

An encoder for encoding the audio data into at least one audio data packets (inherent for encoding MPEG packets; Col. 10, lines 29-40 and Col. 14, lines 1-40);

A generator for generating a control message, the control message including a purchase limit time that corresponds to the time it takes to download the audio data (inherent ; on set time in which user could buy a PPV program, i.e., "Buy until 8:15 PM; Fig. 28, el. 544; Col. 31, lines 1-32);

and a multiplexer (Fig. 1, el. 17) for combining the at least one audio data packets with the control message to form the broadcast signal such that the at least one audio data packet is repetitively transmitted as part of the broadcast signal (reads on the display message of el. 544 along with audio is inherently cyclically transmitted to users such PPV information/service along with updating information within that period of time; Col. 10, lines 25-55).

Claim 28-29, Lajoie further discloses the encoder compress the audio data according to the MPEG-2 compression format in which the audio data is encoded by the ATRAC system or audio data encoded by the MPEG-2 system (Col. 10, lines 29-40 and Col. 14, lines 1-40).

Claim 30, Lajoie further discloses wherein the encoder encodes the audio data into one audio data packet that is repetitively transmitted as part of the broadcast signal (reads on the display message of el. 544 is inherently cyclically transmitted to users such PPV information/service along with audio and updating information within that period of time; Col. 10, lines 25-55).



Claim 31, Lajoie further discloses wherein the control message includes a preview time parameter (see Fig. 32, in which the user able preview within a preview window).

Claim 33, Lajoie further discloses an apparatus as discussed in claim 6 in which receiving program is descrambled (Col. 4, lines 47-50).

Claim 34 and 35 is analyzed with respect to 7.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 32 and 36 are rejected under 35 U.S.C. 103(a) as obvious over Lajoie et al. (US 5850218).

Claims 32 and 36, Lajoie does not disclose "a preview time parameter defines a limit for the number of times the audio data can be previewed" and "wherein if the control unit determines that the audio data cannot be downloaded with the purchase time limit, and indication is provided to the user that the purchase time has elapsed."

Official Notice is taken that using a counter for limiting the number of usage for purpose of controlling usage and providing a message to notify to user that the purchase time (number of time) limit has elapsed for the purpose of notifying message to user the reason why he/she could not allow to access is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lajoie to have an access control as a counter and having a message to notify user of condition access so to provide to user a friendly interactive interface.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht  
03/16/2006



**HAI TRAN  
PRIMARY EXAMINER**